IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10600 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VARSHABEN HITESHBHAI DOSHI

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

Ms. Manisha Lavkumar AGP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 07/12/2000

ORAL JUDGEMENT

Heard learned advocate Mr.Supehia for the petitioner and Ms. Manisha Lavkumar, learned assistant government pleader for the respondent authorities.

Rule. With consent of the learned advocates for both the sides, this petition is taken up for final hearing today itself.

In this petition, the petitioner is the widow serving as a junior clerk in the labour court since 1996. The petitioner was appointed on compassionate grounds since her husband died in harness on 16.4.1995. The petitioner, by letter dated 3.12.1996, made a request to the respondent no.2 to grant her the benefits of the Group Insurance Scheme since her husband died while in service which demand was refused by letter dated 14.12.1998 wherein it has been stated that since the amount of contribution towards the scheme for the month in which the husband of the petitioner was not taken, she would not be entitled to the above scheme inasmuch as he was not a member of the Scheme.Thereafter, respondent no.2 by letter dated 18.2.1999 recommended that the petitioner is entitled to the amount under the scheme. However, by letter dated 30.8.2000, the petitioner has been denied the amount as aforesaid finally and hence the petitioner has approached this court by way of this petition.

I have heard the learned advocates for the parties. I have considered the arguments advanced by the learned advocates for the parties. The fact remain that the husband of the petitioner had been a labour judge at labour court at Surat by order dated 6th February, 1995 and thereafter he died within short period during the course of employment on 16th April, 1995. As per the scheme of 1981, if any employee dies during the course of employment, then, dependents of such employees are entitled to the benefit of the Group Insurance Scheme. The question is that this scheme earlier started with effect from April of each year and then he would become a member of such a scheme and, therefore, when the husband of the petitioner died on 16th April, 1995, naturally, on 1st April, the husband of the petitioner has become member of the said scheme because the widow has received salary for the period from first April, 1995 to 16th April, 1995 and it was the duty of the respondents to deduct contribution of group insurance scheme from the salary of the husband of the petitioner. However, the respondents have committed mistake in not deducting the said amount towards the salary of the petitioner's deceased husband for the period of April, 1995 which has caused prejudice to the right of the petitioner to get the said amount. This aspect has been considered by the Registrar of the Industrial Court and the Registrar,

Industrial Court has recommended the case of the petitioner by letter dated 18.2.1999. However, same has not been considered in its letter and spirit and the same has been rejected on technical ground that the scheme started in each year April fsand, therefore, husband of the petitioner is required to become member in April, 1995 on which occasion, no amount was deducted from the salary of the petitioner's husband. Therefore, the petitioner is entitled to the said benefit and such answer of the State authority is totally ignoring the underlined object behind the scheme which would ultimately give benefit to the legal heirs of the deceased employee who died during the course of employment. In view of these facts, as per my view, the petitioner is entitled to the benefit of the Group Insurance Scheme and the said benefit has wrongly been denied to the petitioner by order dated 30th August, 2000. Same is, therefore, quashed and set aside and the respondents are directed to deduct the contribution from the salary of the husband of the petitioner for the period from 1st April, 1995 to 16th April, 1995 and to extend and grant the benefit of group insurance scheme to the petitioner with effect from 1995 for which she is entitled to and the arrears of insurance be paid to the petitioner within two months from the date of receipt of certified copy of this order. This petition is, thus, allowed accordingly. Rule is made absolute in terms indicated hereinabove with no order as to costs.

7.12.2000. (H.K. Rathod,J.)

Vyas